

DEPARTMENT OF BENEFIT PAYMENTS

744 P Street
Sacramento, CA 95814
Telephone: (916) 445-0633



September 21, 1976

ALL-COUNTY LETTER NO. 76-122

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: MPP SECTIONS 22-001.3 AND 22-009.1 - WASHINGTON V. OBLEDO

REFERENCE:

Attached are emergency regulations which amend MPP Sections 22-001.3 and 22-009.1. These amendments change the time within which an individual must request a fair hearing from 90 days to one year. The change was made pursuant to a court order in the case of Washington v. Obledo. This order requires the Department to bring the regulations into compliance with W&IC § 10951. These regulations are effective immediately.

The Department is currently in the process of revising its forms to reflect the new one-year fair hearing filing period. Until these revised forms are available, you should continue to use existing forms. However, on each existing form that is used, you should cross out "90 days" where it appears in relation to requests for fair hearing. In place of "90 days" you should write or type "one year".

Among the major forms affected are the ABCD 239 Series, the DFA 377 Series, APSB 201, DFA 285, SSP 4B, SSP 5, SSP 17, WR 1, WR 2 and WR 2A. You may be using substitute forms or other forms that refer to the time period for requesting a fair hearing. If so, you should ensure that the form is corrected to indicate that the time for filing a request is one year instead of 90 days.

Questions concerning the new one-year fair hearing filing period should be addressed to the Office of the Chief Referee at 916/322-2797. Questions concerning the use of forms should be addressed to the AFDC Program Operations Bureau at 916/445-4458.

Sincerely,

A handwritten signature in cursive script that reads 'Marion J. Woods'.

MARION J. WOODS
Director

cc: CWDA

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11180.1)

Office of Administrative Hearings

Office of Administrative Hearings

ENDORSED
APPROVED FOR FILING
(Gov. Code 11380.2)

SEP- 8 1976

Office of Administrative Hearings

DO NOT WRITE IN THIS SPACE

Copy below is hereby certified to be a true
and correct copy of regulations adopted, or
amended, or an order of repeal by:

Department of Benefit Payments

(Agency)

Dated: June 3, 1976

By: Marion J. Wood

Director

(Title)

**ENDORSED
FILED**

In the office of the Secretary of State
of the State of California

SEP 8 1976

At 2:10 o'clock P. M.
MARCH FONG EU, Secretary of State

DO NOT WRITE IN THIS SPACE

After proceedings had in accordance with the provisions of the Administrative Procedure Act (Gov. Code, Title 2, Div. 3, Part 1, Chapter 4.5) and pursuant to the authority vested by Sections 10552, 10553, 10554 and 10604 of the Welfare and Institutions Code, the Department of Benefit Payments hereby repeals, amends, and adopts regulations referred to in Title 22, California Administrative Code, as hereinafter set forth.

FINDING OF EMERGENCY

The implementation of the following regulations is an emergency measure necessary for the immediate preservation of the public health, safety, and general welfare within the meaning of the provisions of Section 11421 (b) of the Government Code.

Amend: Sections 22-001.3
22-009.1

DO NOT WRITE IN THIS SPACE

CONTINUATION SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

22-001 DEFINITIONS - FAIR HEARING

22-001

- .3 The filing date of the claimant's request for a fair hearing is the date he mails, or otherwise submits such request to the Office of the Chief Referee. If the claimant is provided a preliminary hearing in accordance with Section 22-023.2, the filing date of his request for fair hearing is suspended until the date of the decision from such preliminary hearing, except for the purpose of meeting the one year limitation established in Section 22-009.1.
- .31 For purposes of filing hearing requests, the county welfare department in which the claimant resides is to be considered the "Office of the Chief Referee" if the CWD has been so designated by the Chief Referee, Department of Benefit Payments.
- .32 A county welfare department may be designated the "Office of the Chief Referee" for purposes of receiving hearing requests by submitting a written request to the Chief Referee.

DO NOT WRITE IN THIS SPACE

22-009 TIME LIMIT ON REQUEST FOR FAIR HEARING

22-009

- .1 The request for fair hearing must be filed within one year after the order or action with which the claimant is dissatisfied.

The date of the order or action on which the request for a fair hearing is based shall be the date on which notice of such order or action was mailed to the claimant with the following exceptions:

- .11 Where requests for a fair hearing concern the return of erroneous repayments, the date of collection or the date of the last installment payment is the determining date.
- .12 Where requests for a fair hearing concern the amount of the grant, the request must be filed within one year, but the period of review will extend back to the first of the month in which the first day of the one year period occurred.
- .13 If the last day of the one year period falls on a Saturday, Sunday or Holiday, the request for a fair hearing may be filed on the next business day.

1 FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

These regulation changes contain only minimal cost increases to local government. The cost increases are not reimbursable under Revenue and Taxation Code Section 2231 because the regulation changes result from a court decision.

Approved:



MARION J. WOODS, Director
Department of Benefit Payments

DO NOT WRITE IN THIS SPACE